

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>PATRICK COLLINS</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 268,036
<b>CONTRACT FREIGHTERS, INC.</b>	)	
Respondent	)	
AND	)	
	)	
<b>GULF INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appealed the October 9, 2001 Preliminary Decision entered by Administrative Law Judge Robert H. Foerschler.

**ISSUES**

This is a claim for a July 13, 2001 work-related accident that occurred in Springfield, Missouri. The Judge held a preliminary hearing on September 27, 2001, at which the principal issue was whether the Kansas Division of Workers Compensation had jurisdiction over the out-of-state accident. In the October 9, 2001 Preliminary Decision, the Judge determined that it did not.

Claimant contends Judge Foerschler erred. Claimant argues that he accepted a job offer from respondent on approximately March 31, 2000, during a telephone conversation while claimant was at his home in Pittsburg, Kansas. Accordingly, claimant argues that there is jurisdiction under the Kansas Workers Compensation Act as the contract of employment with respondent was made in Kansas. Claimant requests the Board to reverse the Preliminary Decision.

Conversely, respondent and its insurance carrier contend the Preliminary Decision should be affirmed. They argue the contract of employment was made in Joplin, Missouri, after claimant completed on-site testing. Accordingly, they argue the Kansas Division of Workers Compensation does not have jurisdiction over the July 13, 2001 accident.

The sole issue on this appeal is whether claimant has proven that his contract of employment with respondent was made within the State of Kansas. If claimant proves the contract of employment was made in Kansas, Kansas has jurisdiction. If not, Kansas does not have jurisdiction.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date, the Board finds and concludes:

1. The Preliminary Decision should be affirmed. Claimant argues that Kansas has jurisdiction over the July 13, 2001 work-related accident because the contract of employment was made in Kansas. But the Board concludes the evidence fails to establish a Kansas contract as the evidence also fails to establish that respondent offered, or that claimant accepted, a job offer in the telephone conversations claimant had with respondent's job recruiter.
2. After learning about a possible job opening, on approximately March 8, 2000, claimant drove to Joplin, Missouri, and applied for a job with respondent. At that visit, claimant submitted a job application and underwent an interview. Claimant then advised respondent that he did not want respondent to contact his then-current employer, Monsours, Inc., until it was relatively certain that he had a job with respondent. Claimant was directed to telephone respondent after a few days to determine whether respondent had contacted his former employers and whether there were any problems.
3. On approximately March 30, 2000, claimant telephoned respondent and underwent a second interview. During that conversation, claimant again advised respondent that he did not want respondent to contact Monsours, Inc., unless it was certain that he had another job. After some discussion, claimant then acquiesced in respondent contacting Monsours, Inc.
4. In the March 30, 2000 telephone conversation, claimant was directed to contact respondent after a day or so to learn what Monsours, Inc., had said and also for respondent to tell him whether or not he had the job. From his home in Pittsburg, Kansas, claimant later telephoned respondent on an undisclosed date and, according to claimant, was advised he was hired. Claimant contends it was in this third conversation that he accepted an offer of employment that had been made by respondent.
5. Claimant reported to work for respondent on April 3, 2000, and underwent a driving test, a physical examination, an integrity test, and a drug test.
6. The Kansas Division of Workers Compensation has jurisdiction over out-of-state accidents when either (i) the principal place of employment is within Kansas or (ii) the employment contract is made in Kansas, unless the contract otherwise provides.

. . . That the workmen's compensation act shall apply also to injuries sustained outside the state where: (1) The principal place of employment is within the state; or (2) the contract of employment was made within the state, unless such contract otherwise specifically provides . . .<sup>1</sup>

But the Board concludes at this juncture that claimant has failed to prove it is more probably true than not that the contract of employment was made in Kansas. Considering the entire record compiled to date, including the testimony of respondent's witnesses, the Board concludes that the evidence fails to establish that respondent made an employment offer to claimant in the third conversation.

7. Because the evidence fails to establish that the contract of employment was made in Kansas, the Board concludes that the Kansas Division of Workers Compensation does not have jurisdiction of the claim.

**WHEREFORE**, the Board affirms the October 9, 2001 Preliminary Decision entered by Judge Foerschler.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 2001.

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BOARD MEMBER

c: Leah Brown Burkhead, Attorney for Claimant  
Richard J. Liby, Attorney for Respondent and its Insurance Carrier  
Robert H. Foerschler, Administrative Law Judge  
Philip S. Harness, Workers Compensation Director

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<sup>1</sup> K.S.A. 44-506.